

A Regular Meeting of the Zoning Board of Appeals of the Town of Lancaster, Erie County, New York, was held at the Lancaster Town Hall, 21 Central Avenue, Lancaster, New York, on the 14th day of August at 8:00 P.M., and there were

PRESENT: MARK AQUINO, MEMBER

 JAMES PERRY, MEMBER

 LAWRENCE PIGNATARO, MEMBER

 RICHARD QUINN, MEMBER

 ARLIE SCHWAN, MEMBER

 ROBERT THILL, MEMBER

ABSENT: JEFFREY LEHRBACH, CHAIRMAN

ALSO PRESENT: JOHANNA M. COLEMAN, TOWN CLERK

 LEONARD CAMPISANO, ASST. BUILDING INSPECTOR

 NICHOLAS LOCICERO, TOWN PROSECUTOR

The Affidavits of Publication and Posting of this Public Hearing are on file and a copy of the Legal Notice has been posted.

In the absence of Chairman Lehrbach, the Town Clerk asked for a motion to appoint a temporary chair. A motion to appoint Mr. Quinn temporary chairman was made by Mr. Perry and seconded by Mr. Thill.

_____The motion was duly put to a vote which resulted as follows:

MR. AQUINO	VOTED YES
MR. PERRY	VOTED YES
MR. PIGNATARO	VOTED YES
MR. QUINN	VOTED YES
MR. SCHWAN	VOTED YES
MR. THILL	VOTED YES
MR. LEHRBACH	WAS ABSENT

_____ **Motion Carried**

_____Mr. Quinn called the meeting to order at 8:16 P.M.

PETITION OF RONALD OSWALD

THE 1st CASE CONSIDERED BY THE ZONING Board of Appeals was that of the petition of Ronald Oswald, 404 Harris Hill Road, Williamsville, New York 14221 (Town of Lancaster) for one [1] variance for the purpose of constructing a pole barn on premises owned by the petitioner at 404 Harris Hill Road, Lancaster, New York, to wit:

A variance from the requirements of Chapter 50, Zoning, Section 11.D and Section 10.D.(4) of the Code of the Town of Lancaster. The area of the proposed accessory structure is one thousand one hundred twenty [1,120] square feet.

Chapter 50, Zoning, Section 11.D and Section 10.D.(4) of the Code of the Town of Lancaster limit the area of accessory structures to seven hundred fifty [750] square feet. The petitioner, therefore, requests a three hundred seventy [370] square foot variance.

The Clerk presented and entered into evidence the following items:

Duly executed petition of the applicant with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioner of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

Copy of a letter notifying the Erie County Department of Environment and Planning of the time and place of this public hearing.

PERSONS ADDRESSING THE BOARD

Ronald Oswald

Petitioner

IN THE MATTER OF THE PETITION OF RONALD OSWALD

THE FOLLOWING RESOLUTION WAS OFFERED
BY MR. PIGNATARO, WHO MOVED ITS
ADOPTION, SECONDED BY MR. PERRY
TO WIT:

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Ronald Oswald and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 14th day of August 2008, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

WHEREAS, the applicant is the present owner of the premises in question.

WHEREAS, the property for which the applicant is petitioning is within a Residential District 2, (R-2) as shown on the Zoning Map of the Town of Lancaster.

WHEREAS, the Erie County Department of Environment and Planning has received a full copy of proposed zoning action and has made no recommendation.

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought.

That no detriment to nearby properties will be created by the granting of the area variance relief sought.

That the benefit sought by the applicant cannot be achieved by some other method, feasible for the applicant to pursue, other than the area variance relief sought.

That the requested area variance relief is not substantial.

That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the alleged difficulty is self created but not to the extent necessary to preclude the granting of the area variance relief sought.

That this board has taken into consideration the benefit to the applicant if the variance relief sought is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

That within the intent and purposes of this ordinance the variance relief sought, if granted, is the minimum variance necessary to afford relief.

NOW, THEREFORE, BE IT

RESOLVED that based upon these findings, the relief sought be and is hereby **GRANTED**-subject to the following conditions which in the opinion of this board are appropriate conditions to minimize adverse effects on the character of the surrounding area and to safeguard the public health, safety, convenience and general welfare:

- that the colors of the structure shall be earth tone in nature, namely clay and light stone
- that no commercial enterprise, other than those permitted by Chapter 50 of the Code of the Town of Lancaster, be conducted on the premises

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR. AQUINO	VOTED YES
MR. PERRY	VOTED YES
MR. PIGNATARO	VOTED YES
MR. QUINN	VOTED YES
MR. SCHWAN	VOTED YES
MR. THILL	VOTED YES
MR. LEHRBACH	WAS ABSENT

The resolution granting the variance was thereupon **ADOPTED**.

August 14, 2008

PETITION OF NEAL CHOOPS:

THE 2nd CASE CONSIDERED BY THE ZONING Board of Appeals was that of the petition of Neal Choops, 5381 Clinton Street, Elma, New York 14059 for one [1] variance for the purpose of constructing a nine hundred sixty [960] square foot garage on premises owned by the petitioner at 183 Cemetery Road, Lancaster New York, to wit:

A variance from the requirements of Chapter 50, Zoning, Section 9D.(4) of the Code of the Town of Lancaster. The area of the proposed accessory structure is nine hundred sixty [960] square feet.

Chapter 50, Zoning, Section 9D.(4) of the Code of the Town of Lancaster limits the area of an accessory structure to 750 square feet. The petitioner, therefore, requests a two hundred ten [210] square foot accessory use area variance.

The Clerk presented and entered into evidence the following items:

Duly executed petition of the applicant with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioner of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

Copy of a letter notifying the Erie County Department of Environment and Planning of the time and place of this public hearing.

PERSONS ADDRESSING THE BOARD

Robert Vealey, representing petitioner	Proponent
Monty Schrlau	Questions

IN THE MATTER OF THE PETITION OF NEAL CHOOPS

THE FOLLOWING RESOLUTION WAS OFFERED
BY MR. AQUINO, WHO MOVED ITS
ADOPTION, SECONDED BY MR. THILL
TO WIT:

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Neal Choops and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 14th day of August 2008, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

WHEREAS, the applicant is the present owner of the premises in question.

WHEREAS, the property for which the applicant is petitioning is within a Agricultural Residential District, (A-R) as shown on the Zoning Map of the Town of Lancaster.

WHEREAS, the Erie County Department of Environment and Planning has received a full copy of proposed zoning action and has made no recommendation.

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought.

That no detriment to nearby properties will be created by the granting of the area variance relief sought.

That the benefit sought by the applicant cannot be achieved by some other method, feasible for the applicant to pursue, other than the area variance relief sought.

That the requested area variance relief is not substantial.

That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the alleged difficulty is self created but not to the extent necessary to preclude the granting of the area variance relief sought.

That this board has taken into consideration the benefit to the applicant if the variance relief sought is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

That within the intent and purposes of this ordinance the variance relief sought, if granted, is the minimum variance necessary to afford relief.

NOW, THEREFORE, BE IT

RESOLVED that based upon these findings, the relief sought be and is hereby **GRANTED**-subject to the following conditions which in the opinion of this board are appropriate conditions to minimize adverse effects on the character of the surrounding area and to safeguard the public health, safety, convenience and general welfare:

- that drainage from the structure be confined to the premises of the petitioner and not invade the premises of the property owner to the south
- that no commercial enterprise, other than those permitted by Chapter 50 of the Code of the Town of Lancaster, be conducted on the premises

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR. AQUINO	VOTED YES
MR. PERRY	VOTED YES
MR. PIGNATARO	VOTED YES
MR. QUINN	VOTED YES
MR. SCHWAN	VOTED YES
MR. THILL	VOTED YES
MR. LEHRBACH	WAS ABSENT

The resolution granting the variance was thereupon **ADOPTED**.

August 14, 2008

PETITION OF MICHAEL PASIERB:

THE 3rd CASE CONSIDERED BY THE ZONING Board of Appeals was that of the petition of Michael Pasierb, 25 Impala Parkway, Lancaster, New York 14086 for two [2] variances for the purpose of allowing a storage shed to remain as currently positioned on premises owned by the petitioner at 25 Impala Parkway, Lancaster, New York, to wit:

- A. A variance from the requirements of Chapter 50, Zoning, Section 10D.(1)(b) of the Code of the Town of Lancaster. The storage shed is positioned three feet, six inches [3',6"] from the south side-yard lot line.

Chapter 50, Zoning, Section 10D.(1)(b) of the Code of the Town of Lancaster requires a five foot [5'] side-yard lot line set back for an accessory structure. The petitioner, therefore, requests a one foot, six inch [1', 6"] south side-yard lot line set back variance.

- B. A variance from the requirements of Chapter 50, Zoning, Section 10D.(1)(a) of the Code of the Town of Lancaster. The storage shed is positioned four feet, six inches [4',6"] from the principle structure.

Chapter 50, Zoning, Section 10D.(1)(a) of the Code of the Town of Lancaster requires an accessory structure to be located ten [10] feet from any other structure. The petitioner, therefore, requests a five foot, six inch [5',6"] variance.

The Clerk presented and entered into evidence the following items:

Duly executed petition of the applicant with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioner of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

PERSONS ADDRESSING THE BOARD

Michael Pasierb, petitioner	Proponent
Bob Rogers	Comments

Mr. Thill asked to have entered into the record a letter dated July 1, 1996 from the Town of Lancaster Building Inspector to the property owner at 21 Impala Parkway. (This letter has been entered into the file of Michael Pasierb, 25 Impala Parkway).

IN THE MATTER OF THE PETITION OF MICHAEL PASIERB

THE FOLLOWING RESOLUTION WAS OFFERED
BY MR. QUINN, WHO MOVED ITS
ADOPTION, SECONDED BY MR. SCHWAN
TO WIT:

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Michael Pasierb and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 14th day of August 2008, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

WHEREAS, the applicant is the present owner of the premises in question.

WHEREAS, the property for which the applicant is petitioning is within a Residential District 1, (R-1) as shown on the Zoning Map of the Town of Lancaster.

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That the benefit sought by the applicant can be achieved by some other method, feasible for the applicant to pursue, other than the area variance relief sought.

That the requested area variance relief is substantial.

That the proposed area variance relief will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the alleged difficulty is self created.

That the granting of this variance request would be a detriment to the health, safety and welfare of the petitioner and community.

That the petitioner failed to carry the burden of establishing that strict compliance with the Zoning Ordinance would cause practical difficulties rendering the property unusable.

That denial of the variance does not deprive the petitioner of the ability to locate his shed in a manner consistent with the Code of the Town of Lancaster.

NOW, THEREFORE, BE IT

RESOLVED that based upon these findings, the relief sought be and is hereby **CONSIDERED**.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR. AQUINO	VOTED NO
MR. PERRY	VOTED NO
MR. PIGNATARO	VOTED NO
MR. QUINN	VOTED NO
MR. SCHWAN	VOTED NO
MR. THILL	VOTED NO
MR. LEHRBACH	WAS ABSENT

The resolution granting the variance was thereupon **DENIED**.

August 14, 2008

ON MOTION DULY MADE, SECONDED AND CARRIED, the meeting was adjourned at 9:06 P.M.

Signed _____
Johanna M. Coleman, Town Clerk and
Clerk, Zoning Board of Appeals
Dated: August 14, 2008